



PLANNING COMMISSION STAFF REPORT - ORDINANCE AMENDMENT

MARCH 19, 2021
OA_2021-0001

SUMMARY

APPLICANT: COUNTY OF MENDOCINO
501 LOW GAP ROAD
UKIAH, CA 95482

REQUEST: Ordinance Amendment to Mendocino County Code Chapter 6.36 and Chapter 20.243 regarding cannabis facilities and events.

LOCATION: Within the unincorporated areas of Mendocino County, not including the designated Coastal Zone areas of the County.

ENVIRONMENTAL DETERMINATION: General Rule Exemption
California Code of Regulations (CCR) 15061.3(b)(3)

STAFF PLANNER: SAM VANDY VANDEWATER

INTRODUCTION

The Mendocino County Board of Supervisors (the Board) seeks to amend the regulations for non-cultivation cannabis facilities which include the processing, manufacturing, distribution, testing, and retail of cannabis and cannabis products. These revisions have included additional amendments to the Mendocino County Code which are indirectly related to cannabis facilities.

- On April 4, 2017 the Board adopted Ordinance No. 4381, adding Chapter 10A.17 – Mendocino Cannabis Cultivation and Chapter 20.242 – Cannabis Cultivation Sites to the Mendocino County Code regarding the cultivation of medical and adult-use cannabis in Mendocino County to create a permit program for cultivation in the unincorporated areas of inland Mendocino County. A Mitigated Negative Declaration (MND) was adopted for the ordinance (SCH No. 2016112028).
- On October 17, 2017, the Board adopted Ordinance No. 4394, adding Chapter 6.36 – Cannabis Facilities Businesses and Chapter 20.243 – Cannabis Facilities to the Mendocino County Code regarding the permitting aspects of the non-cultivation cannabis industry which includes processing, manufacturing, testing, distribution, and retail of cannabis and cannabis products. The ordinance was found to be exempt from CEQA under the General Rule and took effect on November 16, 2017.
- On March 27, 2018, the Board adopted Ordinance 4410, amending Chapter 6.36 – Cannabis Facilities Businesses and Chapter 20.243.070 – Cannabis Facilities, as well as the Williamson Act Policies and Procedures. Planning & Building Services (PBS) Staff had been made aware of discrepancies between the Mendocino County Code and the Williamson Act regarding uses that are considered compatible for lands within an agricultural preserve. Amendments provided clarification and consistency between the two documents, allowing cannabis processing, manufacturing, and distribution to be considered as compatible with Williamson Act contracts;
- On August 7, 2018, the Board created the “Non-Cultivation Working Group” (NCWG) for the purpose of identifying key issues with Ordinance 4394 and making recommendations for the Board to consider as solutions. The NCWG was directed to consist of County Staff from the Executive Office and the Mendocino County Department of Planning & Building Services, in addition to members of the public that are stakeholders in the non-cultivation cannabis industry.

- From October 4, 2018, through to July 16, 2019, the NCWG met and discussed recommendations for the Board to consider as direction to County Staff. A total of eight (8) meetings were held and a total of seventeen (17) recommendations were prepared.
- On September 17, 2019, staff from the Executive Office and Department of Planning & Building Services presented the NCWG recommendations to the Board for their consideration and possible direction to staff. The Board agreed with and provided direction for seven (7) of the recommendations; the ten (10) remaining recommendations were addressed by the Board with varying responses ranging from complete rejection to further investigation required.
- On January 25, 2021, the Board held a special meeting to discuss cannabis cultivation and cannabis facilities. The Board reviewed a draft version of the proposed ordinance amendments and has some additional direction, but otherwise approved of the revised and added language.

BACKGROUND

Through the Non-Cultivation Working Group (NCWG), a number of issues regarding the Cannabis Facilities Ordinance, including both Chapter 6.36 and Chapter 20.243, were identified for discussion amongst the group. The recommendations of the NCWG were presented to the Board of Supervisors for consideration and the Board provided direction to County Staff to make some of the recommended changes. While working to incorporate said direction from the Board regarding the Cannabis Facilities Ordinance, Planning & Building Services (PBS) Staff identified additional language in the County Code for revision to provide a more streamline approach to permitting cannabis events. The main topic addressed other than the Cannabis Facilities Ordinance, was the cannabis events permitting process and requirements.

CHANGES TO CHAPTER 6.36 – CANNABIS FACILITIES BUSINESSES

The proposed amendment to Chapter 6.36 consists of the removal of Section 6.36.150 from the Mendocino County Code related to temporary cannabis facilities business licenses. The provision of such temporary licenses was initially allowed by the California Bureau of Cannabis Control (BCC) in earlier iterations of State language. This provision of temporary licenses was allowed for a designated period of time to ensure transition of cannabis businesses from previous markets into the new market, and has since ceased. The proposed amendment seeks to clean the Chapter and remove language from the Mendocino County Code that is no longer applicable due to expiration of State language.

CHANGES TO CHAPTER 20.243 – CANNABIS FACILITIES

The proposed amendments to Chapter 20.243 include recommendations from the Non-Cultivation Working Group and the Board of Supervisors, but also revisions County Staff feels would help provide clarification to the public regarding certain portions of the code. A common amendment throughout Chapter 20.243 is the disassociation with Chapter 10A.17 and Chapter 20.242.

The amended definitions in section 20.243.030 have been expanded upon for further clarification, incorporated from Chapter 10A.17, or newly added into the section from State regulations for better alignment with County language. The changes to the definitions section include the following terms: Adjacent parcel; Cannabis, Cannabis Facilities Business License or CFBL; Cannabis farm; Cannabis farmers' market; Cannabis farm tour; Cannabis farm tour operator; Cannabis lodging; Cannabis waste; Infused pre-roll; Kief; Manufacture; Manufacturing Level 1 (Non-Volatile); Nonvolatile solvent; Park; Pre-roll; Process, processing, and processes; School; Shared-use Facility; Volatile Solvent; and Youth-oriented facility.

The amendments to section 20.243.040 include clarification of existing regulations and expansion of several use classifications to provide more opportunities to the cannabis industry of Mendocino County. The proposed amendments, besides revision related to 10A.17, including the following sections:

- 20.243.040(A) – Processing: Language amended to align with Department policies and practices regarding the processing of cannabis from two cultivation sites on a single parcel.

- 20.243.040(B) – Manufacturing: Inclusion of shared-use facility language to allow up to five (5) different cannabis manufacturers to operate in a single unit at staggered times to ensure no overlap of use.
- 20.243.040(D) – Retail: Major revisions and expansion of retail use classification to incorporate canna-tourism uses, in addition to providing clarification to several existing regulations. Clarifications include allowance to consume cannabis on-site, permit certain use types in zoning districts beyond what is allotted in section 20.243.060, and differentiate between Retail Dispensary and Non-Storefront Retail. Additions to the retail language include the permitting of cannabis farmers' markets, cannabis farm tours, cannabis lodging opportunities, and on-site consumption at cannabis cultivation locations. Revisions to this section include direction from the Board of Supervisors.
- 20.243.040(E) – Distribution: Clarification of how local distribution CFBLs align with State distribution licenses.

The proposed amendments to section 20.243.050 solely entail removal of language related to 10A.17.

The proposed amendments to section 20.243.060 focus exclusively on the established table the identifies which cannabis facility use types are permitted (or prohibited) in each zoning district throughout the inland portions of Mendocino County subject to Division I of Title 20 of the Mendocino County Code. Revisions include the expansion of Manufacturing Level 1 (Non-Volatile) into the Limited Commercial (C1) zoning district, and Distributor into the Agricultural (AG), Rangeland (RL), and Forestland (FL) zoning districts. In order to allow these expansions, Manufacturing Level 1 (Non-Volatile) was associated with the Custom Manufacturing Industrial Use Type, which is permitted in the C1 zoning district as a Cottage Industry (Limited) and after obtaining a Cottage Minor Use Permit. For the Distributor expansion, "Packing and Processing – Winery" was considered a less intensive yet similar use as materials can be sourced on- or off-site and distributed after processing occurs. While similar in impact, Staff finds that the uses are not completely conjunct and thus recommends a Major Use Permit be required for the expanded use types.

The proposed amendments to section 20.243.090 entails the removal of language related to 10A.17, as well as expanded provisions to allow the Planning & Building Services the ability to deny licenses.

The proposed amendments to section 20.243.110 remove the permit revocation language and add cannabis event regulations to the section as directed by the Board of Supervisors. Cannabis events will be allowed pursuant to the newly amended language for section 20.168.020, in addition to several specific requirements that are currently written in State regulations.

The proposed amendments to section 20.243.110 results in the addition of section 20.243.120 using the permit revocation language retained from the previous section of the chapter.

ENVIRONMENTAL DETERMINATION

Consistent with the California Environmental Quality Act (CEQA) determination for the CFC, Section 15061(b)(3) of the CEQA Guidelines, the General Rule Exemption, applies to this action, as the proposed amendments do not have the potential to cause a significant effect on the environment, and is therefore not subject to CEQA. These amendments apply only to areas that have been previously disturbed.

GENERAL PLAN CONSISTENCY ANALYSIS

Staff finds that the proposed amendments are consistent with the 2009 Mendocino County General Plan. The allowed uses would still only be permitted in areas already otherwise allowed for by the General Plan and the expansion of other uses would be consistent with uses of similar intent or impact already otherwise allowed for by the General Plan and Mendocino County Zoning Code.

RECOMMENDED MOTION FOR THE PLANNING COMMISSION

The Planning Commission by resolution recommends that the Mendocino County Board of Supervisors find that the project is exempt from CEQA under the General Rule and approve Ordinance Amendment OA_2021-0001 which will modify Chapters 6.18 (Outdoor Festivals), 6.36 (Cannabis Facility Businesses), 20168 (Temporary Uses), and 20.243 (Cannabis Facilities).

DATE

SAM VANDY VANDEWATER
INTERIM SENIOR PLANNER

ATTACHMENTS:

1. Proposed Resolution
 - a. Proposed Ordinance –Amendments for Chapters 6.36 – Cannabis Facility Businesses and 20.243 – Cannabis Facilities.